

Remarks

Claims 1-12 and 18-20 are now in the application. Claims 1 through 11 have been resubmitted, with only grammatical corrections to claim 10 addressing indefiniteness complained of by the Examiner. Those claims are resubmitted without narrowing amendment together with arguments in support of the express limitations of the claims that expressly and patentably define the invention over the teachings of the cited references. Independent claim 12 has been amended to include grammatical changes addressing indefiniteness as well as amendment including the limitations of original claim 13 that particularly and patentably define the present invention over the teachings of the cited references and other references of record. Claims 14-16 are canceled while claim 17 is replaced by new independent claim 20. Accordingly, all of the claims are now considered in condition for allowance as discussed in greater detail below.

The Examiner objected to claim 10 as omitting a transitional phrase between the preamble and method steps. Accordingly, the term "comprising" has been inserted after the term "hinge" in a manner suggested by the Examiner to overcome the objection. The Examiner also inquired as to what the pivot length is biased about. Accordingly, a clarification citing that biasing of the pivoting link occurs about the pivot axis for the sake of clarity in the manner suggested by the Examiner.

The Examiner also objected to claim 12 as requiring clarification of the laterally coiled strand used to form the spring. Accordingly, the language suggested by the Examiner has been incorporated to clarify the meaning of the claim. None of the above amendments narrow the claims to clarify the subject matter originally contained in the claims.

The Examiner rejected claims 1, 4-10, 12 and 14 under 35 U.S.C. § 102(b) as anticipated by Germann. The Examiner recites several limitations of the claim as supported by the reference, but erroneously states that the strand ends of the coiled spring extend "to a position at the first end" and that the first and second ends bias the link "at the first coil end."

Those limitations of the claim are a substantial departure from the teachings of Germann, and the reference fails to anticipate the claimed invention of independent claims 1 and 10 and their dependent claims under 35 U.S.C. § 102(b).

Germann expressly recites that his device for rear deck lids or hood lids may be built with a gooseneck hinge biased by a laterally coiled spring. While one end of a laterally coiled spring engages the gooseneck lever, the other end of the spring is bolted to a bracket. However, while an end of strand 31 enters the gooseneck arm in a direction toward the other end of the lateral coil, the strand terminates short of the other end of the coil. In addition, strand portion 32 is bent toward the center or midpoint of the lateral coil, while wrapping around a bolt. This mid coil alignment is an important feature that provides the advantage of a hinge made with a relatively few number of parts taught by Germann. (Col. 1, lines 12-14) This mid coil alignment limits the raised position of the closure member, as the spring portion 38 contacts abutment surface 39 on the bracket. (Col. 2, lines 50-57.) Moreover, each of the Germann claims expressly defines the invention as including engagement of the spring with the abutment surface. As a result, movement of both strand ends to one end of the coil represents a feature not taught in, and representing a substantial departure from, the teachings of the reference.

Moreover, a motivation to modify the structure is not provided by the reference insofar as removal of the structure and the function is contrary to the invention taught by Germann. Neither the structure nor the express limitation of biasing the link and the mount "at a first coil end" results from applying ordinary skill in the art, or the application of other prior art teachings, to the cited reference in a manner that would be obvious under 35 U.S.C. § 103. Accordingly, the claims 1 and 10 include express limitations that expressly and patentably define the present invention over Germann and the other references of record under 35 U.S.C. § 102 and 35 U.S.C. § 103. Likewise, dependent claims 1-9 and 11, respectively, also patentably define the invention.

With respect to claim 12, the Examiner argued that the combination of pivot link, pivot couplings and a spring, in which the pivot link is a gooseneck bar, can be found in the reference. However, as now amended to incorporate the limitations of previously claimed subject matter of claim 13, Germann does not teach or suggest that the coiled strand of the spring is coaxial to the pivot axis. Rather, in the spring structure of Germann, the axis of the coiled strand is displaced throughout pivoting movement of the gooseneck arm. This structure does not function in a manner in which the coiled strand is coaxial to the pivot axis, as expressly defined in claim 12 as now amended. In addition, dependent claims 18 and 19 likewise particularly define the present invention over the teachings of the cited reference.

The Examiner rejected claims 12 and 15-17 under 35 U.S.C. § 102(b) as anticipated by Lewis. However, Lewis expressly teaches that the gooseneck structure for a deck lid hinge is biased for pivoting in multiple directions, including movement between the raised and lowered position of the deck lid about an axis A. However, the biasing for this movement is provided by a concentrically wound spring, and thus does not meet the limitations of the laterally coiled spring of claim 12. Moreover, the motivation to change the spring is not taught or suggested by the reference, since the gooseneck arm of Lewis must also be pivoted about an axis transverse to the axis A, a direction in which lateral extension of the spring may interfere with transverse movement of the gooseneck arm that prevents it from intruding into the trunk space. As a result, the reference fails to anticipate the claimed invention under 35 U.S.C. § 102 or render the invention obvious under 35 U.S.C. § 103.

Moreover, as now amended to include the limitations of previous claim 13, the claim defines the invention over the concentrically wound spring of Lewis, and for the reason that Lewis's coil has an axis displaced from the pivot axis A about which the gooseneck arm pivots. As a result, claim 12 as amended particularly and patentably defines the present invention over the teachings of Lewis. Moreover, the amended claim is fully supported by the original disclosure and does not add new matter to the application. In particular, express reference to the limitations added to claim 12 was provided in previous claim 13 and subjected

to examination by the Examiner. Accordingly, the amendment does not add new matter to the application.

The Examiner rejected claims 2, 3 and 11 under 35 U.S.C. § 103 as unpatentable over Germann. The arguments made above in support of claims 2, 3 and 11 are equally applicable to this rejection. Moreover, the express limitations of claim 1 define over the teachings of Germann and obvious variations of those teachings with ordinary skill in the art. Germann does not teach or suggest the express limitations recited in the claim. The reference also lacks motivation to change to the structure of the claim language, as the change would render the previous invention inoperable for its intended purpose of limiting displacement of the deck lid as discussed above. Moreover, the Examiner's argument acknowledged that Germann does not show the longitudinally extended portion of the spring.

The Examiner also argued that the location of the longitudinally extending portion within or outside the coil does not appear to produce a new or unexpected result over the prior art. In fact, such a structure is new and unexpected from the teachings of Germann and other prior art references. Rather, Germann places the coil adjacent the abutment surface for interaction therewith that limits the opening position of the lid. The Examiner's argument that ordinary skill in the art could extend one end to the other end of the coil is not taught or suggested by Germann or other references of record. Rather, in light of the mid coil abutment surface used for lid position limiting in Germann, extending end portions of the strands to one end of the coils is not suggested. Extending both ends in the same direction would be a most unobvious variation and substantial departure from the teachings of Germann. As a result, the reference does not provide a proper ground for rejection under 35 U.S.C. § 103. Rather, the Examiner's argument that "there must be a longitudinal portion to the strand" is guided only by hindsight in light of Applicant's disclosure.

The Examiner rejected claims 12 and 13 under 35 U.S.C. § 103 as unpatentable over Shelton in view of Lewis. While Shelton discloses a closure panel hinge with a hold open mechanism, such a structure is substantially different from the deck lid and hood lid hinge

structures of other references relied upon by the Examiner. While the Examiner argued that gooseneck bars are commonly used so that a lid can move away from a vehicle body, the hinge mechanism of the primary reference Shelton is one in which the panel is urged toward a closed position, and must be held open in the open position. As a result, this is not the kind of mechanism to which gooseneck bars would commonly be used by those of ordinary skill in the art, where a lid must be moved (and biased) away from the compartment opening to avoid panel interference.

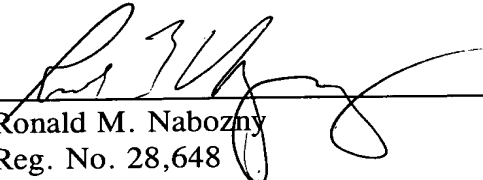
The vertical position of Shelton's panel conceals a fuel filler tube or deck lid latch, and the horizontal position enables access to the tube or latch. In contrast, a deck lid hinge biases the hinge to open the heavy deck lid, but is kept from opening by a latch. Such closures are quite unlike the normally closing, biasing mechanism of Shelton covering a fuel door or trunk lid latch beside a license plate holding panel. The age of the patents demonstrates that while such physical structures as the gooseneck hinge coexisted with patents showing a panel hinge with hold-open mechanisms, such as that taught by Shelton, there was no motivation to combine the two with ordinary skill in the art. Rather, the differences in biasing, function and structure would be recognized with ordinary skill in the art. The differences would not suggest their combination, as combining hinge structures having oppositely biased displacements would be a substantial departure from the prior art patents teaching previously known deck lid closure panels using gooseneck levers. As a result, amended claim 12 is not properly considered obvious under 35 U.S.C. § 103 from the references combined by the Examiner.

A check in the amount of \$200.00 for payment of the fee under 37 C.F.R. § 1.16(h) accompanies this amendment. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

In view of the foregoing, Applicant respectfully submits that the present application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

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